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SHANKS & HERBERT

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Atty Dkt. No. 0152-0019

U.S. App. No: 09/938,292

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

*Allowable Subject Matter*

Applicants gratefully acknowledge the indication at page 3 of the Office Action that Claims 1-14 are free of the prior art.

*Information Disclosure Statement*

Applicants acknowledge receipt, with the Office Action, of a copy of a form PTO-1449 that accompanied Applicants' Information Disclosure Statement filed December 20, 2001 in the present application, as well as a copy of a form PTO-1449 that accompanied Applicants' Information Disclosure Statement ("IDS") filed December 20, 2001 in co-owned, co-invented Application number 09/938,293 ("293 application"). Applicants note that all of the citations listed on the 1449 filed in the present application have been lined through, and the following statement written by hand on the bottom, "This IDS is a duplicate of the IDS previously filed." The 1449 returned with the Office Action in this application which had been filed in the '293 application indicates that the U.S. patent citations have been considered, but not the one published International application. The December 20<sup>th</sup> IDS in this application fully complied with 37 C.F.R. §§ 1.97, 1.98, yet the Office Action indicates that none of the citations were considered. The Office Action does not indicate why the one published International application was not considered in the 1449 from the '293 application, even though it's citation fully complied with 37 C.F.R. §§ 1.97, 1.98. While Applicants understand that there may have been a problem at the PTO in matching the papers properly with their respective files, Applicants' IDSs have fully complied with the appropriate rules, and therefore all of the prior art cited therein must be considered.

01/13/03 16:38 FAX 703 683 6461

SHANKS & HERBERT

012

Att'y Dkt. No. 0152-0019

U.S. App. No: 09/938,292

Applicants respectfully request consideration of all of the references cited in the December 20<sup>th</sup> IDS in this application, and that the record properly indicate this fact. Applicants file herewith a duplicate of the 1449 filed with the December 20<sup>th</sup> IDS to assist the examiner in clarifying the record.

*Objection to the Title*

In the Office Action, at page 2, the Title was objected to. Applicants respectfully request reconsideration of this objection.

By way of the foregoing amendments, Applicants have amended the Title to address the concerns in the Office Action. Applicants respectfully submit that the Title is not objectionable, and therefore respectfully requests withdrawal of the objection thereto.

*Objection to the Drawings*

In the Office Action, at page 2, the drawings were objected to. Applicants respectfully request reconsideration of this objection.

Applicants file on even date herewith a Request for Approval of Proposed Drawing Changes, in which Applicant proposes to add a new Figure 8 to the drawings to address some of the remarks in the Office Action. Specifically, Applicants propose to add a very simple bottom plan view of the inner cap 30, with portions broken away, so that the words "CAUTION NOT CHILD RESISTANT" are illustrated. No new matter would be added by approval of this drawing addition, and further the additional drawing fully satisfies the requirements of Rule 83 and M.P.E.P. § 608.02(d), noted in the Office Action. A Brief Description of Figure 8 has also been added, above.

The Office Action also objects to the drawings submitted on November 21, 2001, as allegedly introducing new matter to the application. Specifically, the Office Action alleges that there is no support in the application as originally filed for the presence of "screw threads on the inner cap wall as depicted in figure 4 or on the outer cap wall as depicted in figures

Att'y Dkt. No. 0152-0019

U.S. App. No: 09/938,292

1A, 1B, and 7. Additionally, the screw threads do not appear to have the same length between the drawing figures."

Applicants enclose herewith copies of the drawings originally filed with the application. Original Figure 4 plainly illustrates threads 120 on its interior surface, and the disclosure at least at page 8, lines 4-8, provides further support: "For example the engaging means may be a thread bead for engaging the threaded exterior surface portion 50 of the container 40 shown in FIGS. 1A and 1B. Preferably, the engaging means is a single thread bead. More preferably, as shown in FIG. 4, the engaging means is a double thread bead 120." Accordingly, the illustration of a thread bead in Figure 4 is not new matter to this application.

In a similar manner, the threads on the outer cap illustrated in Figs. 1A, 1B, and 7 are not new matter to the application as filed. These figures, as originally filed, all include a thread bead 125. Furthermore, the disclosure as originally filed, at least at page 10, penultimate line, to page 11, line 2, provides further support: "For example, as shown in FIG. 7, the non-child resistant engaging means may be a thread bead for engaging the threaded exterior surface portion 50 of the container 40. Preferably, the engaging means is a single thread bead. More preferably, as shown in FIG. 7, the engaging means is a double thread bead 125." Accordingly, the illustration of a thread bead in Figures 1A, 1B, and 7 is not new matter to this application.

Concerning the statement in the Office Action about the lengths of the thread beads, clarification of the Office Action is respectfully requested. It is not clear if the Office Action is alleging that new matter is somehow involved in the alleged inequality in the length of the threads, or is merely an editorial comment about the drawings. Applicants note that the illustrations in the drawings need not, under the patent rules, necessarily be to scale.

Applicant respectfully submits that the drawings, as Applicant proposes to change them, are not objectionable, and furthermore that the November 21<sup>st</sup> drawings do not

Art'y Dkt. No. 0152-0019

U.S. App. No: 09/938,292

introduce new matter to the application, and therefore respectfully requests withdrawal of the objection thereto.

*Objection to the Specification*

In the Office Action, at pages 2 and 3, the Specification was objected to. Applicants respectfully request reconsideration of this objection.

By way of the foregoing amendments, Applicants have amended the Specification to address the concerns in the Office Action. Applicants respectfully submit that the Specification is not objectionable, and therefore respectfully request withdrawal of the objection thereto.

*Objection to the Claims*

In the Office Action, at page 3, Claims 1-14 were objected to. Applicants respectfully request reconsideration of this objection.

By way of the foregoing amendments, Applicants have amended Claims 1, 2, 7, and 9 to address the concerns in the Office Action. Applicants respectfully submit that Claims 1-14 are not objectionable, and therefore respectfully request withdrawal of the objections thereto.

*Rejection under 35 U.S.C. § 112, Second Paragraph*

In the Office Action, at page 3, Claims 7 and 9 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicants respectfully request reconsideration of these rejections.

Applicants and the undersigned have carefully reviewed the Office Action, the remarks therein concerning the clarity of the claims, and all of the pending claims. By way of the foregoing amendments, Applicants have attempted to specifically address each of the comments in the Office Action concerning the claims' clarity, and respectfully submit that all

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Marked-up Copies of  
Amended Paragraphs and/or Claims

Att'y Dkt. No. 0152-0019  
U.S. A/N: 09/938,292

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1. (Amended) A reversible child resistant closure for use with a container, the closure having a child resistant mode when applied to the container in a first child resistant position and having a non-child resistant mode when applied to the container in a second non-child resistant position, the closure comprising:

an outer cap comprising a first circumferential side wall extending from a top edge to a bottom edge, wherein the first circumferential side wall has a first inner surface with a non-child resistant engaging means for [rotateable] rotatable engagement with the engaging means of the container and a first child resistant engaging means axially offset from the non-child resistant engaging means comprising a series of angular abutments extending about the first inner surface; and

an inner cap comprising a second circumferential side wall extending axially from a upper surface, wherein the second circumferential side wall has a second inner surface and an outer surface, the second inner surface provided with a second child resistant engaging means for [rotateable] rotatable engagement with the engaging means of the container and the outer surface provided with a third child resistant engaging means having a plurality of angular abutment surfaces complementary to the series of angular abutments on the outer cap,

the inner cap being coaxially positioned and nested within the outer cap and axially movable between the first child resistant engaging means of the outer cap and the bottom edge of the cap such that the plurality of angular abutment surfaces of the inner cap engage the series of angular abutments of the outer cap upon rotation of the outer cap to rotate the inner cap in a closing direction and in the absence of an axial force, cam over and past the series of angular abutments of the outer cap upon rotation of the outer cap member in an opening direction to prevent rotation of the inner cap.

2. (Amended) The closure of claim 1, wherein the outer cap further comprises [gripping] gripping means having a plurality of [knerrments] knurlments disposed about an outer surface of the outer cap.

7. (Amended) The closure of claim 1, wherein the angular abutments of the series of angular abutments of the inner cap comprise a first sloped side and a second vertical side,

01/13/03 16:40 FAX 703 683 6461

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Att'y Dkt. No. 0152-0019  
U.S. A/N: 09/938,292

wherein the first sloped side and [a] second vertical side define a second angle [with the axial] in a range of about 22 degrees to about 45 degrees.

9. (Amended) The closure of claim 5, wherein the angular abutments of the series of angular abutments of the inner cap comprise a first sloped side and a second vertical side, wherein the first sloped side and [a] second vertical side define a second angle [with the axial] in a range of about 22 degrees to about 45 degrees.